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Human rights situations that require the Council's attention

Written statement* submitted by People for Successful Corean Reunification, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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North Koreans Abroad: Labor Rights and the Democratic People's Republic of Korea

People for Successful COrean REunification (PSCORE) has prepared the following written statement related to Human Rights in the Democratic People's Republic of Korea (DPRK) for the United Nations Human Rights Council (UNHRC) related to items three and four on the standing agenda. The UN Security Council and International Community has recognized, documented, and sought to address the atrocious human rights violations in the DPRK, culminating in an extensive report in 2014 released by the Commission of Inquiry on Human Rights in the DPRK and stricter sanctions targeting the DPRK government. However, PSCORE urges the UNHRC and member states to address a related and pressing matter: labour rights violations committed by the DPRK in the territories of an estimated 16 participating states. Coercively exporting around 100,000 of its citizens as migrant workers, primarily to Russia, China, the Middle East, and Southeast Asia, but also to European countries like Poland and Malta, the DPRK effectively evades targeted sanctions and violates international labour laws. This is a matter that PSCORE urges the UNHRC and member states to address immediately. This statement begins by contextualizing these labour rights violations within an international law framework, then presents a more detailed description of specific violations, and ends with recommendations for the UNHRC and member states.

International Law

The DPRK's export of workers abroad is in violation of both UN Security Council resolutions and international labour and human rights laws.

Recently, in response to its attempts to develop nuclear weapons, the DPRK has been the subject of multiple *UN Security Council Resolutions*, namely Resolutions 1718 (2006), 1874 (2009), 2087 (2013), and 2094 (2013). By imposing sanctions, and limiting financial access for nuclear research, the Council attempted to halt the DPRK's progress. These resolutions are legally binding to all member states of the UN. According to resolution 2094 of the UN Security Council, the sanctions entail a ban on the provision of financial services or other assets, including bulk cash that could contribute to prohibited programs or activities, or to the evasion of sanctions. Yet the wages of and institutional fees paid by DPRK workers are being channelled into Pyongyang in the form of bulk cash. These funds undermine international sanctions against the DPRK and facilitate the prohibited activities that they are meant to prevent, such as nuclear research.

As a result, member states of the UN are violating resolution 2094 when enterprises in their countries hire workers from the DPRK and do not pay them directly.

In addition, the lack of protection for DPRK citizens working overseas clearly violates labour standards set forth by the International Labour Organization (ILO). The conditions endured by the DPRK overseas labourers violate Articles 13, 14, 15, 16, and 17 of ILO Convention 295, known as the Forced Labour Convention, which aims to "suppress the use of forced or compulsory labour in all its forms."

While the DPRK is not a member of the ILO itself, nearly all the countries that employ migrant workers from the DPRK are. As such, it is their responsibility to ensure that those working within their borders enjoy standards of labour of the level required by the various ILO conventions.

Moreover, the workers are safeguarded by the ten UN core international human rights instruments--applicable to any person regardless of nationality--including International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention against Torture and Other Inhuman or Degrading Treatment or Punishment (CAT); and International Convention for the Protection of All Persons from Enforced Disappearances (CPED) and their respective optional protocols.

The conditions in North Korean labour camps abroad need immediate international attention and intervention to ensure North Korean labourers' rights are upheld in accordance with international labour and human rights laws.

Workers from the DPRK Abroad

The DPRK sends around 100,000 North Koreans to work in manual labour industries, such as mining, logging, textiles, and construction, in an estimated 16 countries through bilateral agreements.

Working abroad is voluntary for citizens of the DPRK and is viewed as a desirable opportunity to earn money. As such, the application process is extremely competitive and both a high-ascribed status and bribery are often necessary to be considered. In order to prevent labourers from defecting while abroad, applicants are screened according to three primary conditions: age, family and loyalty. Immediate family (i.e. spouses and children) serve as collateral to incentivize the obedience of labourers while abroad. An individual's political orientation toward the state based on their ascribed status determines their eligibility and ease through which they may apply to work abroad. Additionally, bribes are commonly used to be considered and to accelerate the process. Once applicants are chosen to work abroad they are required to complete physical examinations and paperwork. They must also attend education classes to prepare them for the experience. Most of the content is political and designed to reinforce the significance of the state political ideology of the DPRK.

DPRK labourers agree to work abroad for a certain amount of time so that they can earn an income. Yet they frequently do not receive all or any of their wages, incorporating them into a system where they are forced to provide free labour. According to defector testimonies, it is common to earn little to no income from employers. Room and board expenses and a labyrinth of bureaucratic and governmental fees designed to channel funds back to Pyongyang diminish the few tangible profits that labourers may receive while abroad. Many defectors stated that they never received any of their wages whatsoever while abroad or even upon their return to the DPRK.

Labourers are cheated out of their wages with institutional fees such as the National Program Fee mentioned by five defectors who laboured in Russia. Defectors recalled that in addition to the National Program Fee there was a loyalty fund that they had to observe twice a year.

The working and living conditions of overseas workers depend on a variety of circumstances such as the type of industry they are working in, their rank, and the country where they are sent. This also applies to how basic needs are met. Labourers typically have poor housing and limited access to healthcare.
Sufficient medical support is tenuous at best for labourers. Medical treatment must be paid independently if an injury occurs and wages are lost for the time taken off. If serious accidents occur, such as frostbite, the affected will be forced to return to the DPRK. They would then be obligated to declare it was their own fault for the injury. Only in the event of a labourer's death is their family eligible for compensation.

Pyongyang has several measures in place to perpetuate its control over DPRK labourers working abroad. Workers are deprived of identification documents to prevent their defection, while undercover National Security Agency (NSA) agents are placed among labourers to identify potential defectors, and to ensure that there is no exchange of unfavourable comments about their country and their leader—whether among the workers themselves, or with outsiders.

The DPRK also operates prisons within countries hosting DPRK labourers. These prisons are managed by the NSA and their purpose is not to detain prisoners but to interrogate them and decide if they should be returned to their work sites or repatriated back to the DPRK.

Recommendations
PSCORE urges:

- The Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea to:
  - Commission a report of the working conditions for DPRK migrant workers.
  - Investigate member states that are collaborating with the DPRK government in violation of international labour and human rights laws and failing to protect the rights of DPRK, migrant workers.
  - Enforce additional enforcement measures on countries that break international covenants and treaties.
- Member States to:
  - Ensure that the workers are able to retain most of their wages as disposable income.
  - Safeguard the right of the DPRK labourers to work under the same conditions as local workers

- Implement routine inspection of all working sites in all industries, including physical examinations as well as working safety inspections.
- Ensure that any detained persons are allowed trial
- Close all detainment centres or any area where foreign authority is more prominent than local authority.

- Companies to:
  - See that individuals sign contracts and receive wages directly.
  - Place safety protocols in dangerous working areas to ensure the least harm to workers.